

APPENDIX K – LANDS AND REALTY

Section 102(a)(1) of the Federal Land Policy Management Act (FLPMA) provides that Congress declares that it is the policy of the United States that... “the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;...”

GENERAL INFORMATION PERTAINING TO LAND OWNERSHIP ADJUSTMENTS

Land Exchanges

This type of real estate transaction is typically processed under the authority of the FLPMA and involves the discretionary, voluntary exchange of lands or interests in lands between the Federal government and a non-Federal party. It is required that:

- Sec. 206(b) - the Federal and non-Federal lands involved be located in the same state
- Sec. 206(b) - the Federal and non-Federal lands be of equal value, or in certain circumstances, approximately equal in value
- Sec. 206(a) - exchanges be completed only after a finding that the public interest would be well served

In considering whether an exchange is in the public interest, consideration is given to the opportunity to:

- Sec. 206(a) - achieve better management of Federal lands
- Sec. 206(a) - meet the needs of state and local residents and their economies
- Sec. 206(a) - secure important objectives, including but not limited to, protection of fish and wildlife habitats, cultural resources, watersheds, wilderness and aesthetic values; enhancement of recreation opportunities and public access; consolidation of lands and/or interests in lands; consolidation of split estate; expansion of communities; accommodation of land use authorizations; promotion of multiple-use values; and fulfillment of public needs

In making the public interest determination, there needs to be a finding that:

- the resource values and the public objectives that the Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the resource values of the non-Federal lands or interests and the public objectives they could serve if acquired, and
- the intended use of the conveyed Federal lands will not significantly conflict with established

management objectives on adjacent Federal lands and Indian trust lands

Land Exchanges vs. Other Methods of Disposal/Acquisition

To help assure the integrity of state and local tax bases, land exchange would be the first priority for both acquisition of non-Federal land and the conveyance of Federal lands into non-Federal ownership of those parcels identified for disposal, except under the following circumstances: 1) where there is a competitive market situation and multiple entities are interested in a parcel of land, land sale may be considered, or 2) where one of the following situations apply, a disposal method other than exchange may be considered: a) resolving inadvertent unauthorized use or occupancy b) providing for community expansion and development c) meeting obligations completing state selections, and d) creating facilities or service for public health, safety and welfare.

Sales

Sales of public lands are authorized under section 203 of FLPMA and offered at not less than fair market value. Public lands determined suitable for sale are offered only on the initiative of the BLM. Such sales have to meet at least one of the following FLPMA sales criteria:

- Sec. 203(a)(1) – such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency; or
- Sec. 203(a)(2) – such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or
- Sec. 203(a)(3) – disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

The preferred method of sale of public lands is by competitive bidding at public auction. However, modified competitive bidding may be used to protect on-going uses, to assure compatibility of the possible uses with adjacent lands, or to avoid dislocation of existing users. Direct sale may be used when the public lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by state or local governments or non-profit

corporations, or where necessary to protect existing equities in the lands or resolve inadvertent unauthorized use or occupancy.

Conveyance of Federally-Owned Mineral Interests – Section 209(b), FLPMA

Section 209(b) of FLPMA provides for the conveyance of mineral interests owned by the United States where the surface is or will be in non-Federal ownership. There must be a finding that: 1) there are no known mineral values in the land, or 2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate non-mineral development of the land and that such development is a more beneficial use of the land than mineral development.

Such conveyance of mineral interests can only be made to the existing or proposed record owner of the surface upon payment of administrative costs and the fair market value of the interests being conveyed.

Direct Purchases

Direct purchases of lands or interest in lands would be limited to cases where no practical alternatives exist, high public values would be obtained, and purchase funds are appropriated. Such actions would need to meet the acquisition criteria for the particular alternative being considered.

Methods of Acquisition

Acquisition of lands or interests in lands would be by methods such as exchange, purchase, donation, or public agency jurisdictional transfer.

Methods of Disposal

Disposal methods to implement land ownership adjustment actions would not vary by alternative, and generally would include the following: a) exchanges b) sales c) Recreation and Public Purposes Act conveyances d) airport grants e) public agency jurisdictional transfers f) state grants

Mineral patents are not considered a land ownership adjustment for the purposes of this plan.

LAND OWNERSHIP ADJUSTMENT CRITERIA

Three types of land ownership adjustment criteria will be adopted (retention, disposal, and acquisition) to provide guidance in categorizing BLM administered land, and in making decisions concerning specific actions.

General Criteria

1. Requirements of applicable laws, executive orders, and regulations will be followed.
2. Priority will be determined by the area directly impacted and the significance of the resources in descending order of National, regional, statewide, and

local. Both economic and non-economic values will be considered in assessing resource significance.

3. A critical level of significance will be assigned to resource values if they are adversely impacted over an area larger than the specific tract being considered for any land ownership adjustment action.

4. Public value losses which cannot be mitigated will be assigned a higher level of significance than those which can be mitigated.

5. A higher level of significance will be assigned to public values which are associated with solving chronic management problems.

RETENTION CRITERIA

These are land tracts which will likely remain as BLM administered land. Although the underlying philosophy is long-term public ownership, adjustments in retention areas involving exchanges and/or sales may occur when the public interest is served.

1. Areas containing moderate to high resource values and/or characteristics. These include but are not limited to:

- Land along rivers, streams, lakes, dams, ponds, springs, and trails
- Riparian areas, community watersheds and/or flood plains
- Areas that contain T&E species of wildlife or aquatic or vegetation
- Areas with special status wildlife species, or aquatic species or vegetative species
- Important general wildlife habitat areas
- Recreation sites and areas
- Significant cultural resource sites
- Geologic areas containing unique or rare features or formations
- Areas with important or unique forest/woodland values
- Other areas containing moderate to high resource values and/or characteristics

2. Lands with a combination of moderate to high multiple-use values which dictate retention in public ownership.

3. Areas of National environmental significance: These include but are not limited to:

- Wilderness, Wilderness Study Areas and former WSAs being studied for protective management
- Wild & Scenic Rivers
- National Scenic & Historic Trails and Study Trails

- Lands containing nationally significant cultural resource sites nominated to or eligible for the National Register of Historic Places
 - National Conservation areas
 - Wetlands and Riparian Areas under Executive Order 11990
 - Other Congressionally Designated Areas and Study Areas
 - Areas of Critical Environmental Concern
4. Areas of National economic significance. These include but are not limited to:
- Designated Mineral Resource Areas where disposal of the surface would unnecessarily interfere with the logical development of the mineral estate, e.g., surface minerals, coal, phosphate, known geologic structures, etc.
 - Lands containing strategic minerals needed for National defense.
5. Lands used in support of National defense: These include but are not limited to U.S. Military and National Guard maneuver areas.
6. Areas where future plans will lead to further consolidation and improvement of land patterns and management efficiency.
7. Areas which the general public, state and local government consider suitable for public ownership.
8. Lands withdrawn by the BLM or other Federal agencies for which the purpose of the withdrawal remains valid and the resource uses can be managed concurrently by BLM.
9. Lands that contribute significantly to the stability of the local economy by virtue of Federal ownership.
10. Lands which provide public access and contain previously mentioned public values which, when considered together, warrant their retention.
11. Guidelines for the retention of the mineral estate are fairly well described and are mandated under FLPMA. These require that the mineral estate be reserved by the U.S. in all land disposals except in some cases where exchanges are involved. In exchanges, the mineral estate may be reserved by both parties presuming there will be no material interference with development of the mineral resource due to disposal of the surface estate. If values are equal, mineral estate title may pass with the surface estate.

ACQUISITION CRITERIA

The following criteria will be used to evaluate proposals which would result in the acquisition of non-Federal lands and/or interest in lands through exchange, fee purchase, donation or other transactions. Priority will be

determined on the basis of multiple-use analysis. The greater the number of resource programs and public values served, the higher the priority for acquisition. All proposals will be evaluated to determine if the non-Federal lands meet any of the following specific criteria:

1. Contain moderate to high resource values and/or characteristics.
 - Land along rivers, streams, lakes, dams, ponds, springs, and trails
 - Riparian areas, community watersheds and/or flood plains
 - Areas that contain T&E species of wildlife or aquatic or vegetation
 - Areas with special status wildlife species, or aquatic species or vegetative species
 - Important general wildlife habitat areas
 - Recreation sites and areas
 - Significant cultural resource sites
 - Geologic areas containing unique and/or scarce features
 - Areas with important or unique forest/woodland values
 - Other areas containing moderate to high resource values and/or characteristics
2. Have the potential for enhancement, manageability or investment opportunity of existing BLM administered lands.
3. Facilitate access to BLM administered land retained for long-term public use.
4. Enhance congressionally designated areas, rivers, or trails.
5. Primarily focused in the "retention" areas. (Acquisition outside of retention areas may be considered if the action leads to and/or facilitates long-term needs or program objectives).
6. Facilitate National, state and local BLM priorities or mission statement needs.
7. Will enhance existing or future activity plans on BLM administered land.
8. Stabilize or enhance local economies or values.
9. Meet long-term BLM land management goals as opposed to short-term BLM land management goals.
10. Are of sufficient size to improve use of adjoining BLM administered land or, if isolated, large enough to allow for the identified potential public land use.
11. Allow for more diverse use, more intensive use, or a change in uses to better fulfill the Bureau's mission.

12. Enhance the opportunity for new or emerging BLM administered land uses or values.

13. Contribute to a wide spectrum of uses or large number of public land users.

14. Secure for the public significant water related land interests. These interests will include lake shore, dam shore, river front, stream, and pond or spring sites.

15. Consolidate mineral estates with surface estates to improve potential for development while improving resource management and economic values of existing BLM administered lands.

Avoid the following when considering acquisition proposals:

Acquiring lands or interests in lands that present management problems that outweigh the expected benefits of such an acquisition, including but not limited to:

- presence of hazardous materials
- abundance of noxious weeds
- access situation is inadequate for managing the property for the purpose(s) for which it would be obtained, etc.
- acquisition of small, isolated tracts

ACCESS CRITERIA

The BLM shall endeavor to maintain existing access, provide future access, and manage access to BLM administered lands in coordination with other Federal agencies, state and local governments, and private landowners.

Specific Access Criteria

1. Obtain access to BLM administered lands in retention areas. (Acquisition of access outside of retention areas may be considered if the action leads to and/or facilitates long term needs or program objectives).

2. Protect, maintain, and manage existing access to BLM administered lands.

3. Manage access to BLM administered lands within BLM's multiple-use mandate.

4. Acquire access on the basis of the following considerations:

- Where there are moderate to high resource values on existing BLM administered land.
- Where there is public demand which is closely tied to resource values.
- Access to larger blocks or parcels of BLM administered land have priority. The presence of important resource values may justify acquiring access to smaller tracts.

- For those projects on BLM administered lands in which substantial public monies have been spent, and in which continuing diverse public use is expected, permanent exclusive access for the general public should be obtained. For lesser investment projects and/or those to which general public use will need to be limited, nonexclusive easements should be obtained.

- Although the Bureau is not required to provide access to mineral resources, the acquisition of such access could be useful in controlling the construction of multiple and unnecessary access routes within the same general area.

DISPOSAL CRITERIA

These are lands identified for potential removal from BLM administration through transfer to other Federal agencies, or by exchange, sale or R&PP Patent to state, county or local public entities, or by exchange or sale to private entities, private groups, private organizations or individuals. Disposal decisions will be made in the public interest based upon the following criteria:

1. Lands with high public values proper for management by other Federal agencies, or state or local governments.

2. Small parcels of BLM administered land contiguous to National Forest land may be considered for transfer to the U.S. Forest Service through a Public Land Order. Other BLM administered land may be considered for transfer where appropriate.

3. Small parcels of BLM administered lands contiguous to State land may be considered for transfer to the State of Montana. Other BLM administered land may be considered for transfer where appropriate.

4. Lands of limited public value.

5. Widely scattered parcels which are difficult and uneconomical to manage with anything beyond minimal custodial administration and have no significant public values.

6. Lands which will serve important public objectives (such as community expansion) as provided in FLPMA.

7. Lands where disposal would aid in aggregating or repositioning other BLM administered lands or land resource values in retention areas to facilitate National, state and local objectives.

8. Lands acquired for a specific Federal purpose which are no longer required for that or any other Federal purpose.

9. Lands with general unauthorized use problems, if the lands are not required for public purposes.

10. Lands with unauthorized occupancy use where permanent structures are involved.

Potential Disposal Parcels

The following lands, totaling 6,818 acres, are potentially suitable for disposal through sale under section 203(a) of FLPMA if important recreation, wildlife, watershed, threatened or endangered species habitat, and/or cultural

values are not identified during disposal clearance reviews and no viable exchange proposals for them can be identified. These lands would also be available for transfer to another agency or to local governments, as needed, to accommodate community expansion and other public purposes.

Potential Disposal Parcels			
Legal Description			Acreage
T. 1 N., R. 6 W.	Section 10	SW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
	Section 11	SW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
	Section 12	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
	Section 29	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
T. 1 N., R. 14 W.	Section 10	Lot 3	43.89
	Section 28	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
T. 2 N., R. 1 W.	Section 2	Lot 3	37.91
		Lot 4	37.81
		S $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
	Section 6	Lot 1	40.70
		Lot 2	40.50
		Lot 3	40.30
		Lot 4	31.76
		Lot 5	32.32
		Lot 6	32.32
		Lot 7	33.59
		SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		Section 34	SE $\frac{1}{4}$ SW $\frac{1}{4}$
	S $\frac{1}{2}$ SE $\frac{1}{4}$		80.00
	T. 3 N., R. 1 W.	Section 32	N $\frac{1}{2}$
T. 6 N., R. 4 W.	Section 3	Segregated Survey	41.02
	Section 5	Lot 12	38.54
		Lot 23	2.70
	Section 8	Lot 3	30.56
Lot 14		0.47	
T. 7 N., R. 3 W.	Section 4	Lot 8	48.47
T. 7 N., R. 4 W.	Section 24	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
	Section 35	Segregated Survey	8.5 est.

Potential Disposal Parcels			
Legal Description			Acreage
T. 8 N., R. 3 W.	Section 9	Lot 6	2.27
		SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
	Section 10	Lot 1	38.93
		Lot 6	1.79
		Lot 7	31.87
		Lot 10	29.34
		Lot 11	0.26
		Lot 16	19.74
	Section 15	NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
	Section 29	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
Section 32	NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$	10.00	
T. 8 N., R. 4 W.	Section 12	Metes & Bounds	5.00 est.
	Section 13	NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
		Lot 1	39.39
	Section 14	Lot 20	4.58
		Lot 21	4.15
		Lot 22	2.71
	Section 23	Lot 15	5.87
		Lot 16	0.93
		Lot 17	6.94
		Lot 18	0.85
T. 9 N., R. 2 W.	Section 20	Lot 7	2.36
		Lot 9	28.04
	Section 21	Lot 2	31.33
		Lot 6	20.27
		Lot 7	0.22
		Lot 8	0.90
		Lot 9	0.90
		Lot 10	0.45
		Lot 5	0.12
	Section 22	Lot 6	19.46
T. 9N., R. 3 W.	Section 32	Lot 14	1.43
T. 10 N., R. 1 W.	Section 6	metes and bounds	.640
		metes and bounds	.06
		metes and bounds	.57
	Section 32	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00

Potential Disposal Parcels			
Legal Description			Acreege
T. 10 N., R. 4 W.	Section 36	Lot 41 (metes and bounds)	.023
T. 10 N., R. 5 W.	Section 3	Lot 22	18.09
		Lot 28	20.24
	Section 4	Lot 14	34.93
	Section 13	Lot 18	40.41
T. 11 N., R. 4 W.	Section 36	Lot 2	20.31
		Lot 4	8.26
		Lot 6	.82
		Lot 7	6.27
T. 11 N., R. 5 W.	Section 15	Lot 3	17.73
	Section 16	Lot 5	44.09
	Section 27	Lot 4	43.69
	Section 34	Lot 8	35.21
		Lot 9	28.32
T. 12 N., R. 6 W.	Section 36	Lot 35 (metes and bounds)	.10
T. 14 N., R. 3 W.	Section 4	Lot 6 (metes and bounds)	3.89
T. 1 N., R. 2 E.	Section 14	W $\frac{1}{2}$ W $\frac{1}{2}$	160.00
T. 2 N., R. 2 E.	Section 12	N $\frac{1}{2}$	320.00
T. 3 N., R. 1 E.	Section 12	NW $\frac{1}{4}$	160.00
T. 3 N., R. 7 E.	Section 30	E $\frac{1}{2}$ NE $\frac{1}{4}$	80.00
T. 4 N., R. 2 E.	Section 34	SW $\frac{1}{4}$	160.00
T. 4 N., R. 3 E.	Section 26	SW $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
T. 4 N., R. 6 E.	Section 6	Lot 3	21.20
		Lot 4	15.76
T. 5 N., R. 5 E.	Section 26	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
	Section 34	N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$	20.00
		N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$	10.00
		N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.00
		N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$	10.00
		E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$	5.00
		W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$	5.00
		NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.50
		NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.50
		N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$	20.00
		N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$	10.00
		S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$	20.00

Potential Disposal Parcels			
Legal Description			Acreage
		SW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
T. 6 N., R. 3 E.	Section 20	W $\frac{1}{2}$ SW $\frac{1}{4}$	80.00
T. 8 N., R. 1 E.	Section 8	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
	Section 18	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
		E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$	20.00
T. 1 S., R. 1 W.	Section 4	W $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
T. 1 S., R. 6 W.	Section 4	SW $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
	Section 12	N $\frac{1}{2}$ NE $\frac{1}{4}$	80.00
		NW $\frac{1}{4}$	160.00
		W $\frac{1}{2}$ SW $\frac{1}{4}$	80.00
		SE $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
	S $\frac{1}{2}$ SE $\frac{1}{4}$	80.00	
Section 14	All	640.00	
T. 2 S., R. 9 W.	Section 24	NE $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
T. 2 S., R. 9 E.	Section 24	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
T. 1 S., R. 1 E.	Section 14	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
T. 2 S., R. 2 E.	Section 3	NE $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
T. 2 S., R. 10 E.	Section 2	SW $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
	Section 3	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		SE $\frac{1}{4}$	160.00
	Section 10	NE $\frac{1}{4}$	160.00
		NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
	Section 17	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$	20.00
		SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$	40.00
		S $\frac{1}{2}$	320.00
Section 20	N $\frac{1}{2}$ N $\frac{1}{2}$	160.00	
T. 2 S., R. 12 E.	Section 27	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
T. 3 S., R. 12 E.	Section 9	W $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
T. 4 S., R. 8 E.	Section 14	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		S $\frac{1}{2}$ NE $\frac{1}{4}$	80.00
		SE $\frac{1}{4}$	160.00
T. 4 S., R. 9 E.	Section 20	NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.00

Potential Disposal Parcels			
Legal Description			Acreage
		S $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
	Section 30	SW $\frac{1}{4}$	160.00
	Section 32	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
T. 6 S., R. 8 E.	Section 9	S $\frac{1}{2}$,SE $\frac{1}{4}$ SE $\frac{1}{4}$, Tract 37	.70